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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/451,341	11/30/99	BURROUGHS	TKMA.65581

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PM92/0201

EXAMINER

ROWAN, K

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 02/01/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/451,341**

Applicant(s)  
**Burroughs et al.**

Examiner  
**Kurt Rowan**

Group Art Unit  
**3643**



☐ Responsive to communication(s) filed on \_\_\_\_\_.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-21 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-21 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## **DETAILED ACTION**

### ***Drawings***

1. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the interior compartment, the first surface, second surface, the peripheral edge must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

### ***Specification***

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: interior compartment, the first surface, second surface, front sidewall,
4. The disclosure is objected to because of the following informalities: on page 4, line 5, "Fig. 2", second occurrence, should be --Fig. 1--.

Appropriate correction is required.

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***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In addition to the lack of antecedent basis stated below, the claims are confusing because of claim terminology not matching the specification's detailed description and drawing deficiencies as stated above.

7. Claim 1 recites the limitation "the fish" in line 7. There is insufficient antecedent basis for this limitation in the claim. "A fish" would be correct.

8. Claim 2 recites the limitation "said container" in line 2. There is insufficient antecedent basis for this limitation in the claim.

9. Claim 12 recites the limitation "the fish" in line 7. There is insufficient antecedent basis for this limitation in the claim. "A fish" would be correct.

10. Claim 13 recites the limitation "said container" in line 2. There is insufficient antecedent basis for this limitation in the claim.

11. Claim 20 recites the limitation "said inner edge" in line 2. There is insufficient antecedent basis for this limitation in the claim.

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***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 1-21 as can be understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Splickan et al. in view of Hobson et al.

The patents to Splickan and Hobson show live well tanks for use on a boat to hold fish. Splickan shows a bottom, sidewalls 12-13 having first and second opposing ends. The bottom and the sidewall section define an interior compartment (not labeled). Splickan shows a top 29 coupled with the second end of the sidewall section and an overflow drain 22 coupled with the sidewall section of the tank near the bottom. The top forms an opening 36 for receiving a fish and a first surface 31 projecting inwardly from the peripheral edge to cover a portion of the interior compartment. Hobson shows a live well having a overflow drain 40 coupled to a sidewall section of the tank proximate the top. In reference to claim 1, it would have been obvious to provide Splickan with an drain located near the top as shown by Hobson to replace the drain of Splickan since merely one drain is being substituted for another and the function is the same. In reference to claim 12, Splickan shows a baffle 39. In reference to claims 2, 13, Splickan shows the first surface 31 extending completely around the peripheral edge of the sidewall section and inwardly into the container with the first surface terminating at an inner edge defining said opening. In

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reference to claim 3, Splickan shows the peripheral edge and the opening as generally rectangular. In reference to claims 4, 14, it is not clear what orientation Splickan uses or if it matters in relation to the front side wall being directed in the direction of forward boat motion. Hobson mounts the well on the back of the boat as shown in Fig. 1 and couples the drain with the rear side wall. However, it would have been obvious to couple the couple the drain with the front side wall since the function is the same. In reference to claims 5, 16, Splickan shows a baffle 39 coupled with the sidewall section between the bottom and the overflow drain with the baffle extending from the sidewall section inwardly into the interior compartment. In reference to claims 6, 17, Splickan shows the baffle extending completely around the sidewall section. In reference to claims 7, 15, Splickan shows the baffle including a lower generally planar surface at arrow 39 and an upper curved surface 40 noting Fig. 3. In reference to claims 8, 18, Splickan shows a second surface 26 coupled to the first surface 31. In reference to claims 9, 19, Splickan shows a sealing flange 30 upstanding from the first surface. In reference to claims 10, 20, Splickan shows the sealing flange 30 coupled with the surface at the inner edge. In reference to claims 11, 21, Splickan shows a resilient collar 23 coupled with the sealing flange.

### *Conclusion*

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Van Grossman, Nelson, Kelley, Carlson, Fisher, Marsh, Muncaster, and Northrop show other live well tanks.

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15.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **KURT ROWAN** whose telephone number is (703) 308-2321.

The examiner can normally be reached on Monday-Thursday from 6:30 a.m. to 5:00 p.m.

The fax phone number for the organization where this application or proceeding is assigned is (703) 306-4195 or (703) 305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



KURT ROWAN

PRIMARY EXAMINER

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January 25, 2001